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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/757,834	01/15/2004	Dale A. Burghardt	KCX-119-CON (14175.1)	5079
22827	7590	08/22/2006	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			ROGERS, JAMES WILLIAM	
			ART UNIT	PAPER NUMBER
			1618	
DATE MAILED: 08/22/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/757,834

Applicant(s)

BURGHARDT ET AL.

Examiner

James W. Rogers, Ph.D.

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Any rejections not covered in the office action below are now dropped.

Claim Objections

The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not). Misnumbered claim 12 between claims 3 and 5 should be renumbered to 4, since the examiner did not attach an examiners amendment.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-7, 9-14 and 17-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Goulet et al. (US 6,054,020), for the reasons set forth in the office action mailed 05/03/2006.

Applicant's arguments filed 07/24/2006 have been fully considered but they are not persuasive.

Applicant asserts that Goulet et al. does not disclose a complex of a non-amino functional siloxane and at least one beneficial chemistry agent, instead Goulet et al. merely mentions a biocide package as part of an aqueous emulsion in the examples.

The relevance of this ascertain is unclear. Clearly Goulet does disclose an amino polysiloxane, a non-amino polysiloxanes and a biocide package (meets limitation of a beneficial chemistry agent because a biocide is an antimicrobial) in an emulsive mixture, the emulsion in the experimental section was used as to print two sides of a tissue web. A complex is considered to have formed between the biocide package and the non-amino siloxane when the two were mixed together in the aqueous emulsion, which was then applied to tissue paper.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Floyd (EPA 0607796A1), for the reasons set forth in the office action mailed 05/03/2006.

Applicant's arguments filed 07/24/2006 have been fully considered but they are not persuasive.

Applicant asserts that Floyd fails to disclose or suggest the combination of an amino functional siloxane composition bonded to the pulp fibers in addition to a complex formed from a non-amino functional siloxane and at least one beneficial chemistry agent, specifically Floyd fails to disclose or suggest the use of a beneficial chemistry agent as defined in the present application.

The relevance of this ascertain is unclear. Clearly Floyd discloses an amino functional siloxane applied to the outer surfaces of a facial tissue since the tissue products are both made of wood pulp which is cellulosic material and the amino-polysiloxanes are the same it is obvious that they will form the same bonds, between the amino-polysiloxane and the cellulose of the wood pulp when the medium containing the amino-polysiloxane is applied to the pulp, therefore the limitation is met by Floyd. The medium which is applied to the tissue can comprise an amino functionalized polysiloxane a non-amino functionalized polysiloxane, as well as a surfactant that comprises a lipid, which is a beneficial chemistry agent as defined by applicant. See col 7 lin 1-9. A complex is considered to have formed between the lipid and the non-amino siloxane when the two were mixed together in the medium, which was then applied to tissue paper.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ampulski (US 5,389,204), for the reasons set forth in the office action mailed 05/03/2006.

Applicant asserts that Ampulski fails to disclose or suggest the use of a beneficial chemistry agent.

The relevance of this ascertain is unclear. Clearly Ampulski discloses the use of diluents in the composition, which includes mineral oil, mineral oil is a skin therapeutic agent. Also just because the surfactants were used to improve the properties of the tissue does not mean they will not have a beneficial effect on the skin. It is obvious that since the surfactants were not disclosed as being bonded to the pulp of the tissue the surfactants could be transferred to the skin when the tissue comes into contact with skin.

Conclusion

No claims are allowed at this time.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

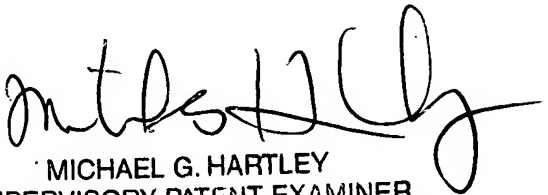
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Rogers whose telephone number is (572) 272-7838. The examiner can normally be reached on 8:30-5:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mike Hartley can be reached on (572) 271-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



MICHAEL G. HARTLEY
SUPERVISORY PATENT EXAMINER